

**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

September 25, 2003

SUBJECT:

Variance Application APP2003-00807

Applicant: M. Roman Serbyn
1612 Martha Terrace
Rockville, Maryland 20852

Property Location: 1612 Martha Terrace

Board of Appeals Public Hearing Date: October 4, 2003

REQUEST:

The applicant seeks a seven-foot variance from the sideyard setback requirement to construct an eleven-foot wide by thirteen-foot deep carport onto the side of the house.

STAFF RECOMMENDATION:

Denial.

ANALYSIS:

Project Proposal

The applicant seeks approval of a variance to reconstruct an eleven-foot wide by thirteen-foot deep carport onto the left or southeast side of the house.

Property Description and Background

The subject property is located in the Montrose subdivision, where it is zoned R-75, One-Family Detached Residential. The property contains 7,723 square feet of land with a relatively flat grade and is improved with a single-family dwelling.

Requested Variance

Section 25-311 requires that the main dwelling be setback nine feet from the side lot line in the R-75 Zone. The existing house, at the closest to where the proposed carport would be attached is located twelve feet from the side property line. Adding an addition of

eleven feet means that the proposed structure would encroach eight feet into the sideyard setback and be within one foot of the side property line.

Applicable Sections of the Zoning Ordinance

Section 25-311 of the Zoning Ordinance requires that structures be setback nine feet from the side lot line for properties located in the R-75 Zone.

Staff Analysis and Recommendation

The following are the findings that the Board is required to make to approve a variance as well as staff's observations.

1. **The variance as requested would not be contrary to the public interest.** Allowing both sides of the house to have encroachments into the side yard setbacks is contrary to the public interest. It is not clear when the covered patio was constructed on the other side of the house but it also encroaches into the side yard setback. Allowing the proposed carport to come to within one foot of the side property line is not in keeping with the zoning or the surrounding neighborhood. As such, the variance as requested would be contrary to the public interest.
2. **The variance is requested owing to conditions peculiar to the property and not the result of any action taken by the applicant.** The lot is oddly shaped but shape is not responsible for any condition necessitating a variance. Allowing the structure to come to within a foot of the property line, however, virtually eliminates any semblance of a side yard from the street perspective. There is no condition peculiar to the property that warrants the ignoring the side yard setback requirement.
3. **A literal enforcement of the Ordinance will result in practical difficulty.** A literal enforcement of the Zoning Ordinance would not result in practical difficulty for the applicant. Ideally, it would be nice to have a cover over a vehicle in inclement weather. It would not, however, protect the applicant from the weather because there is no covered access to the house. Allowing a permanent structure to provide partial protection to a vehicle does not seem to result in a significant practical difficulty. As such, a literal enforcement of the Zoning Ordinance will not result in practical difficulty.

Although staff finds carports to be a nice amenity to a property, it has difficulty with the proposed project for the reasons stated above but mostly because locating the proposed structure so close to the property line ignores setback standards and disregards the customary setbacks in the neighborhood.

Based on the above, staff recommends denial of Variance Application APP2003-00807.

NOTIFICATION

Notices about the public hearing were sent to 789 residences, including those that are legally required.

Attachments